

## CLAIMS: MOTORSHIPS "KRONPRINS GUSTAF ADOLF" AND "PACIFIC"

*Special agreement signed at Washington December 17, 1930*

*Ratified by Sweden January 3, 1931*

*Senate advice and consent to ratification February 14, 1931*

*Ratified by the President of the United States April 17, 1931*

*Ratifications exchanged at Washington October 1, 1931*

*Entered into force October 1, 1931*

*Proclaimed by the President of the United States October 2, 1931*

*Terminated July 18, 1932*<sup>1</sup>

47 Stat. 1911; Treaty Series 841

WHEREAS, the Government of Sweden has presented to the Government of the United States of America certain claims on behalf of Rederiaktiebolaget Nordstjernan, a Swedish corporation, for losses said to have been incurred as a result of the alleged detention in ports of the United States of America, in contravention of provisions of treaties in force between the United States of America and Sweden, of the motorship KRONPRINS GUSTAF ADOLF and the motorship PACIFIC belonging to said Swedish corporation; and

WHEREAS, the Government of the United States of America has disclaimed any liability to indemnify the Government of Sweden in behalf of the owners of the said motorships, therefore:

The President of the United States of America and His Majesty the King of Sweden being desirous that this matter of difference between their two Governments should be submitted to adjudication by a competent and impartial Tribunal have named as their respective plenipotentiaries, that is to say:

The President of the United States of America,

Henry L. Stimson, Secretary of State of the United States of America; and

His Majesty the King of Sweden,

W. Boström, Envoy Extraordinary and Minister Plenipotentiary at Washington;

---

<sup>1</sup> For text of arbitral decision dated July 18, 1932, see *American Journal of International Law*, vol. 26, p. 834.

Who, after having communicated to each other their respective full powers found in good and due form, have agreed upon the following articles:

#### ARTICLE I

There shall be submitted to arbitration pursuant to the Convention for the Pacific Settlement of International Disputes, signed at The Hague, October 18, 1907,<sup>2</sup> and the Arbitration Convention between the United States of America and Sweden, signed at Washington, October 27, 1928,<sup>3</sup> the following questions:

*First*, Whether the Government of the United States of America detained the Swedish motorship *KRONPRINS GUSTAF ADOLF* between June 23, 1917 and July 12, 1918, and the Swedish motorship *PACIFIC* between July 1, 1917 and July 19, 1918, in contravention of the Swedish-American Treaties of April 3, 1783<sup>4</sup> and July 4, 1827.<sup>5</sup>

*Second*, Whether, if the first question be decided in the affirmative, the Government of the United States of America is liable to the Government of Sweden in behalf of the owners of the motorships for damages resulting from such unlawful detention; and,

*Third*, Should the reply be in the affirmative what pecuniary reparation is due to the Government of Sweden on behalf of the owners of the motorships above mentioned.

#### ARTICLE II

The questions stated in Article I shall be submitted for a decision to a sole arbitrator who shall not be a national of either the United States of America or Sweden. In the event that the two Governments shall be unable to agree upon the selection of a sole arbitrator within two months from the date of the coming into force of this Agreement they shall proceed to the establishment of a Tribunal consisting of three members, one designated by the President of the United States of America, one by His Majesty the King of Sweden, and the third, who shall preside over the Tribunal, selected by mutual agreement of the two Governments. None of the members of the Tribunal shall be a national of the United States of America or of Sweden.

#### ARTICLE III

The procedure in the arbitration shall be as follows:

(1) Within ninety days from the date of the exchange of ratifications of this Agreement, the agent for the Government of Sweden shall present to

---

<sup>2</sup> TS 536, *ante*, vol. 1, p. 577.

<sup>3</sup> TS 783, *ante*, p. 760.

<sup>4</sup> TS 346, *ante*, p. 710.

<sup>5</sup> Treaty between the United States and the King of Sweden and Norway signed at Stockholm July 4, 1827 (TS 348, *post*, p. 876, SWEDEN AND NORWAY).

the Agent for the Government of the United States of America a statement of the facts on which the Government of Sweden rests the claim against the United States of America, and the demand for indemnity. This statement shall be accompanied by the evidence in support of the allegations and of the demand made;

(2) Within a like period of ninety days from the date on which this Agreement becomes effective, as aforesaid, the Agent for the Government of the United States of America shall present to the Agent for the Government of Sweden at Washington a statement of facts relied upon by the Government of the United States of America together with evidence in support;

(3) Within sixty days from the date on which the exchange of statements provided for in paragraphs (1) and (2) of this Article is completed each Agent shall present in the manner prescribed by paragraphs (1) and (2) an answer to the statement of the other together with any additional evidence and such argument as they desire to submit.

#### ARTICLE IV

When the development of the record is completed in accordance with Article III hereof, the Government of the United States of America and the Government of Sweden shall forthwith cause to be forwarded to the International Bureau at The Hague, for transmission to the Arbitrator or Arbitrators, as the case may be, three complete sets of the statements, answers, evidence and arguments presented by their respective Agents to each other.

#### ARTICLE V

Within thirty days from the delivery of the record to the Arbitrator or Arbitrators in accordance with Article IV, the Tribunal shall convene at Washington for the purpose of hearing oral arguments by Agents or Counsel, or both, for each Government.

#### ARTICLE VI

When the Agent for either Government has reason to believe that the other Government possesses or could obtain any document or documents which are relevant to the claim but which have not been incorporated in the record such document or documents shall be submitted to the Tribunal at the request of the Agent for the other Government and shall be available for inspection by the demanding Agent. In agreeing to arbitrate the claim of the Kingdom of Sweden in behalf of Rederiaktiebolaget Nordstjernan the Government of the United States of America does not waive any defense which was available prior to the concluding of the Agreement.

#### ARTICLE VII

The decision of the Tribunal shall be made within two months from the date on which the arguments close, unless on the request of the Tribunal the Parties shall agree to extend the period. The decision shall be in writing.

The decision of the majority of the members of the Tribunal, in case a sole arbitrator is not agreed upon, shall be the decision of the Tribunal.

The language in which the proceedings shall be conducted shall be English.

The decision shall be accepted as final and binding upon the two Governments.

#### ARTICLE VIII

Each Government shall pay the expenses of the presentation and conduct of its case before the Tribunal; all other expenses which by their nature are a charge on both Governments, including the honorarium for the Arbitrator or Arbitrators, shall be borne by the two Governments in equal moieties.

#### ARTICLE IX

This Special Agreement shall be ratified in accordance with the constitutional forms of the Contracting Parties and shall take effect immediately upon the exchange of ratifications, which shall take place at Washington as soon as possible.

In witness whereof, the respective plenipotentiaries have signed this Special Agreement and have hereunto affixed their seals.

Done in duplicate at Washington this seventeenth day of December, nineteen hundred and thirty.

HENRY L. STIMSON	[SEAL]
W. BOSTRÖM	[SEAL]